

STATE OF MICHIGAN
COURT OF APPEALS

MADGE SEGRAVES and MERLEN
SEGRAVES,

UNPUBLISHED
February 9, 2006

Plaintiffs-Appellees,

v

JESSICA SAAL and ROBERT SAAL,

No. 254922
Jackson Circuit Court
LC No. 03-002514-NI

Defendants-Appellants.

Before: Meter, P.J., and Whitbeck, C.J. and Schuette, J.

METER, J. (*dissenting*).

I respectfully dissent.

Plaintiff was unable to work following the accident. Moreover, her orthopedic specialist restricted her from activities performed above chest height and from lifting greater than five pounds and did not instruct her to return to work without restrictions until approximately two months following the accident. After returning to work, plaintiff reduced her workload significantly because of ongoing pain. Plaintiff's injury also, at least temporarily, impaired her ability to perform household chores and to sleep.

Of particular significance in this case was plaintiff's inability to work at full capacity for a substantial period of time as a hairdresser because of her lingering shoulder pain. I agree with the trial court that, under the totality of the circumstances, the impairment on plaintiff's ability to work at her full capacity affected her general ability to lead her normal life. *Kreiner v Fischer*, 471 Mich 109, 129-132; 683 NW2d 611 (2004). While working at less than full capacity may not rise to the level of a serious impairment of body function for some people, plaintiff's limitations, albeit self-imposed, had some original basis in medical evidence and resulted in a fifty- to sixty-percent reduction in the level of customers she serviced; this represented a substantial difference from her pre-accident life. See *id.* at 132-133. Although plaintiff's impairment would likely not be permanent, her treatment was not extensive to date, and her residual impairment was somewhat limited, I conclude – when comparing plaintiff's life before and after the accident and considering the significance of the impairment on her ability to work as a hairdresser – that the impairment affected plaintiff's “overall or broad ability to conduct the course of [her] normal life.” *Id.* at 137. Because plaintiff met the threshold for tort liability under the no-fault act by establishing a serious impairment of body function, the trial court properly denied defendants' motion for summary disposition.

I would affirm.

/s/ Patrick M. Meter